

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ELISHA JAMES)
)
Plaintiff,)
)
vs.) Civil Action No.: 2:06cv-768-ID
)
)
THERMASYS CORPORATION)
)
Defendant.)

REPORT OF PARTIES' PLANNING MEETING

1. **Appearances.** Pursuant to Federal Rule of Civil Procedure 26(f), a meeting was held on October 11th by telephone and was attended by:
 - A. Wesley Pitters
 - A. Wesley Pitters, P.C.
 - Attorney for Plaintiff Elisha James
 - Henry C. Barnett, Jr.
 - Capell & Howard, P.C.
 - Attorney for Defendant ThermaSys Corporation
2. **Pre-Discovery Disclosures.** The parties will exchange by November 9, 2006, the information required by Federal Rules of Civil Procedure 26(a)(1).
3. **Discovery Plan.** The parties jointly propose to the court the following discovery plan:
 - a. Discovery will be needed on the following subjects:
 1. All information pertaining to Plaintiff's claims and damages.
 2. All information pertaining to Defendant's defenses.
 3. Facts known to other persons believed to have discoverable information relevant to the claims and defenses of the parties.
 4. Facts relating to affirmative defenses.

5. The Plaintiff's background and litigation history.
- b. All discovery commenced in time to be completed by November 26, 2007.
- c. There will be a maximum of fifty (50) interrogatories including sub-parts by each party to any other party. Responses due 30 days after service.
- d. There will be a maximum of fifty (50) requests for production by each party to any other party.
- e. There will be a maximum of thirty-five (35) requests for admission by each party to any other party. Responses due by 30 days after service.
- f. The parties agree that no more than ten (10) depositions may be taken by a party without leave of the court or agreement of the parties. Except as stated below, each deposition is limited to a maximum of 7 hours unless extended by agreement of the parties. The depositions of the Plaintiff and Defendant's 30(b)(6) witness [s] will be limited to 12 hours unless extended by agreement of the parties or approved by the Court.
- g. Reports from retained experts under Rule 26(a)(2) will be due:
from Plaintiff by September 18, 2007
from Defendant by October 16, 2007.
- h. Supplementation under Rule 26(e) are due within fourteen (14) days of when a party learns that in some material respect the information disclosed is incomplete or incorrect and if the additional corrective information has not otherwise been made known to other parties in the discovery process or in writing.

4. **Other Items.**
 - a. **Scheduling Conference**
The parties do not request a conference with the court before entry of the scheduling order.
 - b. **Pretrial Conference**
The parties request a pretrial conference on or about December 17, 2007.
 - c. **Additional Parties, Claims and Defenses**
Plaintiff should be allowed until December 19, 2006 to join additional parties and to amend the pleadings.
Defendant should be allowed until January 19, 2007 to join additional parties and to amend the pleadings.

d. **Dispositive Motions**

All potentially dispositive motions should be filed by September 18, 2007.

e. **Settlement**

Parties will evaluate settlement possibilities on a continuing basis.

A face-to-face settlement conference should take place by October 9, 2007.

Plaintiffs are to file a Notice Concerning Settlement Conference and Mediation by October 15, 2007.

f. **Trial Evidence**

The final list of witnesses and trial evidence under Rule 26(a)(3) should be due December 28, 2007.

The Parties should have fourteen (14) days after service to list objections under Rule 26(a)(3).

Identification of responsive parts to depositions should be due by January 4, 2008.

Voir dire questions, motions in limine fully briefed, and any proposed jury instructions should be due by January 14, 2008.

g. **Trial Date**

The case should be ready for trial by January 28, 2008, and at this time is expected to take approximately three (3) days.

Respectfully submitted on this the 13th day of October, 2006.

s/ Henry C. Barnett, Jr.

HENRY C. BARNETT, JR. (BAR037)

ATTORNEY FOR DEFENDANT

CAPELL & HOWARD, P. C.

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s/Amardo Wesley Pitters

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